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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities

List of issues in relation to the initial report of Kenya*

A. Purpose and general obligations (arts. 1–4)

1. Please indicate what measures are being adopted for comprehensive legal harmonization, including on the concept of disability, and to remove derogatory terms referring to persons with disabilities, such as "unsound mind", "mental incapacity" and "mental infirmity", from its legislation, in particular the 2010 Constitution (art. 83 (1) (b)), the Local Government Act 2010 (part V, para. 53 (c)), the Election Act 2011 (sect. 9) and the Marriage Act 2014 (sect. 11 (2)), in all of which derogatory terms are found.

2. Please provide information about the situation of persons with disabilities who belong to minority communities and indigenous groups and indicate what measures have been taken to ensure that Kenyan disability legislation and policies include and protect them. Please indicate whether the Convention has been translated into Swahili.

3. Please provide information on mechanisms for consultation with organizations of persons with disabilities.

B. Specific rights

Equality and non-discrimination (art. 5)

4. Please clarify whether the provisions to prevent discrimination on the basis of disability are applicable to all persons with disabilities, including persons with intellectual and/or psychosocial disabilities. Please explain the measures taken to ensure non-discrimination of persons with disabilities by private actors, including within families, and to address cultural practices that are discriminatory of persons with disabilities.

Women with disabilities (art. 6)

5. Please provide information on specific measures taken to mainstream the rights of women and girls with disabilities in the work of the National Gender and Equality Commission.

* Adopted by the pre-sessional working group at its third session (20–24 April 2015).

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Children with disabilities (art. 7)

6. Please report on measures taken to guarantee full respect for the views of children with disabilities, including the views of children living in rural areas and children who belong to minority communities, in accordance with article 7 (3) of the Convention.

Awareness-raising (art. 8)

7. Please indicate whether awareness-raising training or campaigns on disability are provided in the civil service, schools, the media and cultural and religious-run institutions, and initiatives are run for the general public, including those working in the private sector.

Accessibility (art. 9)

8. Please provide specific information on the outcomes of the implementation of the comprehensive legal and policy framework on accessibility, including information on the accessibility of health-care facilities.

Right to life (art. 10)

9. Please report on measures taken to protect persons with albinism from abduction and murder and other discriminatory practices; in particular, please inform the Committee of prosecutions and convictions of perpetrators, of training for the police and of awareness-raising and education campaigns for the public to eliminate such practices.

Situations of risks and humanitarian emergencies (art. 11)

10. Please give details of measures taken to protect the rights of persons with disabilities who are victims of internal displacement, in particular those living in refugee camps, throughout the envisaged repatriation process.

Equal recognition before the law (art. 12)

11. Please indicate what steps are being taken to repeal legislation and practices that restrict legal capacity on the basis of impairment and to establish supported decision-making regimes to secure the right to exercise legal capacity, including the right to decide in all areas of life.

Access to justice (art. 13)

12. Please report on measures taken to ensure that all persons with disabilities benefit from access to justice, including legal aid, procedural accommodations and information and communication in accessible formats, including the Kenyan sign language.

Liberty and security of the person (art. 14)

13. What steps are being taken to repeal laws and practices that permit the detention of persons based on actual or perceived impairment/disability, including "unsound mind"?

Freedom of torture or cruel, inhuman or degrading treatment or punishment (art. 15)

14. Please provide information on measures aimed at supporting victims of forced medical treatment. Please describe how the safeguards against forced medical treatment apply to persons with disabilities and how the right to free and informed consent is upheld in the law and practice for individuals and to prohibit substituted consent by a guardian or carer.

Freedom from exploitation, violence and abuse (art. 16)

15. Please inform the Committee of measures taken to address the heightened risks for children and women with disabilities, including refugee women and girls with disabilities, of becoming victims of violence and abuse. What measures are being adopted to ensure that both services (including shelters and helplines) and information for victims are made accessible to women and girls with disabilities?

Protecting the integrity of the person (art. 17)

16. Please indicate what measures are being taken to prohibit and prevent forced sterilization and genital mutilation of women and girls with disabilities in law and in practice.

Liberty of movement and nationality (art. 18)

17. Please inform the Committee of measures taken to ensure that every person with a disability is registered upon birth or at the time that they choose, and given a name and a nationality.

Living independently and being included in the community (art. 19)

18. Please report on measures to prevent the institutionalization of children with disabilities and to monitor the conditions of children in institutions. Please give details on community-based services available for persons with disabilities to live independently in the community.

Personal mobility (art. 20)

19. Please explain whether persons with disabilities living in rural areas have benefited from the assistive devices being provided. Please also report on measures to ensure access to transportation for the public.

Respect for private and family life (art. 23)

20. Please report on measures taken to ensure that children with disabilities currently in orphanages are returned to a family setting and are included in the community. Please also report on the type of support and services that are available to families with children with disabilities to ensure they can be brought up within their families and are empowered to participate in the community.

21. Please explain what measures are being adopted to respect the right of persons with disabilities, especially persons with psychosocial and/or intellectual disabilities, to marry and found a family.

Education (art. 24)

22. Please explain in detail how the State party is working towards inclusive education, in particular for children with high-level support needs. Please also give information on the current status of inclusive education in the education policy.

Health (art. 25)

23. Please explain how the health services sector will scale up mental and psychosocial health-care and treatment services across the country.

24. What programmes are currently in place across urban and rural areas for persons with disabilities, including women and girls, young persons and refugees, concerning sexual and reproductive health, HIV/AIDS and sexually transmissible infections?

Right to work and employment (art. 27)

25. Please provide information on the employment rate of persons with disabilities in the open labour market, and on the implementation of the 5 per cent quota. Please also give information on measures to protect against employment-based discrimination of persons with disabilities.

Adequate standard of living and social protection (art. 28)

26. Please give details of plans to expand the national development fund to benefit all persons with disabilities, and especially people with psychosocial and/or intellectual disabilities in particular from rural areas.

Participation in political and public life (art. 29)

27. Please provide information on any step taken to repeal restrictions to be elected and to vote in the Constitution, in particular sections 83 (1) (b) and 99 (2) (e), in which it is stated that a person can be disqualified from voting and being elected as a Member of Parliament if the person is of "unsound mind".

28. Please explain in detail what the Government is doing to improve physical access to polling stations, as well as ensuring access to election-related information for persons with disabilities.

C. Special obligations

Statistics and data collection (art. 31)

29. Please report on any attempt to update the data-collection system in accordance with the Convention and with the involvement of organizations of persons with disabilities.

International cooperation (art. 32)

30. Please give information on the mechanisms to consult and involve with organizations of persons with disabilities in the design of international cooperation projects and programmes.

National implementation and monitoring (art. 33)

31. Please report on steps taken to establish a national implementation and monitoring mechanism.